

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA

-v-

MICHAEL J. EISENBERG,

Defendant.

STIPULATION IN SUPPORT  
OF APPLICATION FOR  
16<sup>TH</sup> OR SUBSEQUENT  
ORDER OF CONTINUANCE AND  
16<sup>TH</sup> ORDER OF CONTINUANCE

22 Mag. 1043  
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The United States of America and the defendant jointly request and agree that the time period from 4/12/2023 to 5/10/2023 be excluded from the computation of the period within which an information or indictment must be filed, pursuant to Title 18, United States Code, Section 3161(b) and (h)(7).

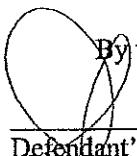
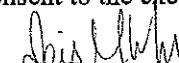
MICHAEL J. EISENBERG, the defendant, was charged with violations of 18 U.S.C. § 2252A in a complaint dated February 1, 2022. Specifically, EISENBERG was charged with having received, distributed, and possessed child pornography after having previously been convicted of a prior state offense for the possession of child pornography. The defendant was presented before Magistrate Judge Judith C. McCarthy on February 2, 2022, and the defendant was detained. The parties submit that there is good cause for an additional exclusion of time because the parties are exploring a possible disposition of this case prior to trial and those discussions are ongoing.

Specifically, prior counsel for the defendant, who had been working towards developing a potential mitigation submission, passed away unexpectedly in June 2022. There was a transition period thereafter involving the office of the prior counsel unwinding representations. New counsel, Stacey Richman, Esq., was eventually retained and after getting up to speed on the matter, has restarted similar efforts towards developing a mitigation submission. Counsel met with and discussed those efforts in person with the defendant during the week of November 7, 2022. Counsel and the Government engaged in preliminary discussions regarding a potential resolution on November 21, 2022, and again on December 14, 2022.

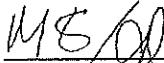
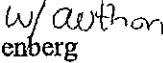
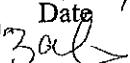
Since then, defense counsel resumed efforts to retain an expert, including by connecting with an expert who has previous experience with the defendant. On April 6, 2023, counsel reported that she has retained an expert who is working on an expert report and that counsel is continuing to work on the mitigation submission, including based on voluminous medical records. Counsel continues to remain in contact with the defendant and further confirms that the defendant is aware of these developments.

This additional exclusion of time will thus allow an opportunity for counsel and the defendant to continue to work together towards developing a potential mitigation submission and pursue a potential pretrial disposition.

By the following signatures we agree and consent to the exclusion of time noted above:

	<u>Defendant's Counsel</u>	<u>4/10/23</u>	<u>Date</u>		<u>Assistant U.S. Attorney</u>	<u>Qais Ghafary</u>	<u>04/07/23</u>	<u>Date</u>
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The defendant states that he has been fully advised by counsel of his rights guaranteed under (a) of the Sixth Amendment to the Constitution; (b) the Speedy Trial Act of 1974, as set forth in Title 18, United States Code, Sections 3161-74; and (c) the plans and rules of this Court adopted pursuant to that Act. The defendant understands that he has a right to be charged by indictment or information, and to have a trial before a judge or jury, within a specified time (excluding certain time periods) under the Constitution and Rules and Laws of the United States identified above. The defendant consents and agrees to the above request.

 4/10/23  
Defendant  Date  
Michael J. Eisenberg   
*Signed on Michael J. Eisenberg's behalf by counsel Stacey Richman with the express authorization of Michael J. Eisenberg.*

The joint application of the United States of America and the defendant having been heard at a proceeding on the date below, the time period from 4/12/2023 5/10/2023 is hereby excluded in computing the time within which an indictment or information must be filed. The Court grants this continuance on the finding that the ends of justice outweigh the interests of the public and the defendant in a speedy trial, for the reasons set forth above. The Court further orders:

Dated: 4-12-2023  
White Plains, New York

**SO ORDERED**

  
United States Magistrate Judge  
Southern District of New York